

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of _____ 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Introducing a Local Law entitled “Building Code Administration and Enforcement Procedures for Buildings and Zoning”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Tom Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____:

“to adopt the following local law, to be known as Village of Pawling Local Law No. 2 for the Year 2022, entitled “Chapter 10-A Building Code and Zoning Administration and Enforcement Procedures”:

CHAPTER 10-A

**Building Code Administration and Enforcement Procedures
for Buildings and Zoning**

§ 10-1. Title. This Local Law #1 for the Year 2022 shall be designated and referred to as “Chapter 10-A Building Code and Zoning Administration and Enforcement Procedures.”

§ 10-2. Purpose and intent.

- A. This Chapter provides for the administration and enforcement in the Village of the New York State Uniform Fire Prevention and Building Code (the Uniform Code), the State Energy Conservation Construction Code (the Energy Code), this Chapter, Chapter 98 Zoning of the Code of the Village of Pawling (“Zoning Law”) and other state and local laws and regulations related to construction, development and/or use of Buildings, Structures and Lots and/or other land within the Village the enforcement of which is lawfully vested in the Village of Pawling or its duly authorized designees.

- B. This Chapter is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other sections of this Chapter, all Buildings, Structures, and Lots and other land in the Village, regardless of use or occupancy, are subject to the provisions this Chapter.

§ 10-3. Definitions. In this Chapter, the following terms shall have the meanings indicated:

APPLICANT — a Person applying for a Building Permit, a Certificate of Occupancy or an Operating Permit, as the case may be.

APPLICATION — an application submitted by an Applicant for a Building Permit, a Certificate of Occupancy or an Operating Permit, as the case may be.

AUTHORIZED OFFICER – means the Village Clerk or any other officer of the Village, other than the Building Inspector, who is authorized by the Mayor with the approval of the Board to take any one or more Officer Actions, .

BOARD — The Board of Trustees of the Village.

BUILDING — Any Structure or series of connected Structures having a roof or roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattel.

BUILDING INSPECTOR — The Building Inspector appointed pursuant to § 10-5.A of this Chapter.

BUILDING INSPECTOR DOCUMENT — has the meaning set forth in § 10-5.C(3)(a) of this Chapter.

BUILDING INSPECTOR QUALIFICATIONS — has the meaning set forth in § 10-5.B of this Chapter.

BUILDING PERMIT — A permit issued pursuant to § 10-6 of this Chapter. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this Chapter.

CERTIFICATE OF OCCUPANCY — A certificate issued pursuant to § 10-9.B of this Chapter.

CHAPTER — Means a Chapter of the Code and “this Chapter” means this Chapter 10-A of the Code.

CODE — the Code of the Village and any other local laws of the Village.

CONTRACTED INSPECTOR – has the meaning set forth in § 10-5.C of this Chapter.

CORRECTION DATE — has the meaning set forth in § 10-18.E of this Chapter.

DEMOLITION PERMIT — a Building Permit which involves the demolition of one or more Buildings or other Structures or no other Work for which a Building Permit is required under this Chapter.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

LEGAL REQUIREMENT — any provision of the Uniform Code, the Energy Code, this Chapter, the Zoning Law, the Code and/or any other state or local law, ordinance or regulation related to construction, development and/or use of Buildings, Structures and Lots and other land within the Village, the administration and/or enforcement of which is lawfully vested in the Village, the Building Inspector, any Authorized Officer and/or any Contracted Inspector, as the case may be.

LOT — A parcel of land whose boundaries are established by some legal instrument such as a recorded deed or map and has been established in accord with applicable Legal Requirements as a separate parcel of land for the purposes of transfer of title.

NOTICE OF VIOLATION — means notice of a Violation issued by the Building Inspector to one or more Responsible Persons as provided in § 10-18 of this Chapter.

OFFICER ACTION – has the meaning set forth in § 10-5.C(3).

OPERATING PERMIT — A permit issued pursuant to § 10-12 of this Chapter. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this Chapter.

ORDER TO REMEDY — An order issued by the Building Inspector pursuant to § 10-16.A of this Chapter.

PERMIT HOLDER — The person to whom a Building Permit or Operating Permit, as the case may be, has been issued.

PERSON — Shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

PREMISES IN VIOLATION — Any Lot, land, Building or Structure within the Village upon or with respect to which a Violation is occurring or has occurred and remains uncorrected.

RESPONSIBLE PERSON — “Responsible Person” means any of the following Persons: (i) the Violating Owner and/or any other Person that the Building Inspector has reasonable cause to believe has committed or materially participated in committing a Violation, either through act or omission. Without limiting the generality of the immediately preceding sentence, a Responsible Person may include without limitation a builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person or entity taking part or assisting in either (i) the Work being performed at the Premises in Violation or (ii) any act or

omission causing the Violation in whole or in part. Further if the Premises in Violation is owned by a Person who is not a natural person, a Responsible Person may include without limitation, the owner(s), shareholders, directors, members, managers and/or agents, as the case may be, of the Responsible Person who the Building Inspection determines is taking part or assisting in either (i) the Work being performed at the Premises in Violation or (ii) any act or omission causing the Violation in whole or in part.

STOP-WORK ORDER — An order issued pursuant to § 10-8 of this Chapter.

STRUCTURE — Anything constructed or erected on the ground or with a fixed location on the ground or attached to something having a fixed location on the ground, including but not limited to Buildings, walls, fences, radio towers, power-generating equipment such as freestanding windmills and solar panels, swimming pools, billboards, poster panels and signs.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 10-9.D of this Chapter.

UNCORRECTED VIOLATION — has the meaning set forth in § 10-18.E.

UNIFORM CODE — The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

UNSAFE STRUCTURE — has the meaning set forth in § 10-11.A.

VILLAGE — The Village of Pawling, New York.

VILLAGE CLERK — The Village Clerk of the Village.

VIOLATING OWNER — The owner of a Premises in Violation.

VIOLATION — “Violation” means any one or more conditions or activities found to exist in, on, or about any Building, Structure, Lot or other land located within the Village where any one or more of the following apply:

- a. Any Building or Structure is being erected, constructed, reconstructed, altered, repaired, converted, or maintained: (i) in violation of any one or more Legal Requirements or (ii) in the opinion of the Building Inspector in a dangerous or unsafe manner, in any case without regard to whether such work is or is not Work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work;
- b. Any Building or Structure is in violation of any one or more Legal Requirements or is dangerous or unsafe;
- c. Any condition or use of any Building, Structure, Lot or other land fails in any respect to comply with any one or more Legal Requirements;

- d. Any Lot or other land is divided into lots, blocks or sites in a manner which fails to comply with any one or more Legal Requirements, including without limitation Chapter 82, Subdivision of Land;
- e. Any Work which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked;
- f. Any Work which is not in conformity with either (i) the Building Permit; or (ii) any plans or specifications approved in connection therewith or in connection with an approved site plan.

If there is more than one Violation with respect to a given Building, Structure, Lot or Land, the term “Violation” shall be deemed to mean each such Violation.

WORK – Has the meaning set forth in § 10-6.A.

ZONING LAW — Local Law # 2 for the year 1995 entitled Chapter 98 Zoning Law.

§ 10-4. Amendment or Repeal of Certain Local Laws of the Village.

- A. Local Law # 1 for the year 1979 entitled “Chapter 10 Building Construction” is hereby repealed.
- B. Local Law #1 for the year 2007 entitled “A local law providing for the administration and enforcement of the NYS Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code in this Village” is hereby repealed.
- C. The following Articles of the Zoning Law are repealed: Article VIII “Building Permits”, Article IX Certificates of Occupancy and Article XI “Powers and Duties of the Building Inspector; Penalties”. Articles VIII, IX and XI of the Zoning Law are reserved for future use.
- D. Local Law #14 for the Year 2015 entitled “Chapter 14 Unsafe Buildings Law of the Village of Pawling” is hereby repealed.

§ 10-5. Building Inspector and Contracted Inspectors; Powers of Authorized Officers

- A. The Board of Trustees may appoint one or more Building Inspectors. The Building Inspector shall administer and enforce all the provisions of the Uniform Code, the Energy Code, this Chapter and shall enforce all provisions of the Zoning Law. The Building Inspector shall also administer and enforce other local laws of the Village to the extent provided for therein. To the extent that the provisions of this Chapter are in conflict with or are inconsistent with any provisions of the Zoning Law or any other local law of the Village, the provisions of this Chapter 10-A shall prevail and be controlling. The Building Inspector shall have the following powers and duties:
 - (1) To receive, review, and approve or disapprove Applications for Building Permits, Certificates of Occupancy, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such Applications;

- (2) Upon approval of such Applications, to issue Building Permits, Certificates of Occupancy, temporary certificates and operating permits, and to include in Building Permits, Certificates of Occupancy, temporary certificates and operating permits such terms and conditions as the Building Inspector may determine to be appropriate;
- (3) To conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, temporary certificates and operating permits, fire safety and property maintenance inspections, inspections related to enforcement of the Zoning Law, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this Chapter; provided however, that unless the owner or owner's agent of a given property located in the Village consents to such inspection in writing or there is an emergency justifying an immediate inspection as provided in § 10-11.G of this Chapter or other applicable law authorizes an inspection or search without a search warrant, the Building Inspector, prior to conducting an inspection on such property, must obtain a search warrant from a court of competent jurisdiction.
- (4) To issue stop-Work orders, Notices of Violation and other notices and orders provided for in this Chapter;
- (5) In connection with any Application, to interpret the Zoning Law to the full extent permitted by New York law, subject, however, to the Applicant's right to appeal such determination to the Zoning Board of Appeals pursuant to Village Law 7-712-b.¹
- (6) To review and investigate complaints;
- (7) To maintain records;
- (8) To collect fees provided for in this Chapter;
- (9) To pursue administrative enforcement actions and proceedings relating to any Violation;
- (10) In consultation with the Village Attorney and subject to the approval of the Board, to commence, pursue and prosecute such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, this Chapter, and any other local law of the Village which provides for enforcement by the Building Inspector or Code Enforcement Officer or to abate or correct any Violations, including without limitation, conditions not in compliance with the Uniform Code, the Energy Code, this Chapter, the Zoning Law;

¹ See, *Matter of Jamil v Village of Scarsdale Planning Bd.*, No. 2004-07764, 8452/03, 808 N.Y.S.2d 260, 261, 2005 N.Y. Slip Op. 09535, 2005 WL 3429454 (N.Y.A.D. 2 Dept., Dec. 12, 2005)(power to interpret the local zoning law is vested exclusively in the Building Inspector and the Zoning Board of Appeals).

- (11) To inspect all signs in the Village and to enforce all of the provisions of the Village's local law regulating signs;
 - (12) The Building Inspector may request and shall receive, as far as may be necessary in the discharge of his duties, the assistance and cooperation of the police and fire officers and all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.
 - (13) To exercise all other powers and fulfill all other duties conferred upon the Building Inspector by this Chapter.
- B. The Building Inspector may be appointed and removed from office from time to time by the Mayor with the approval of the Board. The Building Inspector's term of office shall be one (1) year from the date of appointment; provided, however, that the Board may by resolution provide for a shorter or longer term of appointment for the Building Inspector. The Building Inspector shall meet or exceed the "Building Inspector Qualifications". "Building Inspector Qualifications" means having background experience related to Building construction and fire prevention and complying with the minimum standards imposed on the Village for Building Safety Inspectors and Code Enforcement Officers as set forth in 19 NYCRR §1208(a) or (b), as the case may be, as same may be amended from time to time. A copy of 19 NYCRR §1208(a) in effect as of the effective date of this local law is attached hereto as Schedule "A". The Board by resolution may from time to time amend or modify the Building Inspector Qualifications provided that such amendment or modification does not violate any applicable state or federal law.
- C. In addition to or in lieu of the appointment of a Building Inspector, the Board may from time to time employ or engage as an independent contractor one or more individuals, partnerships, corporations, LLCs or other entities to carry out some or all of the duties of the Building Inspector as provided in this Chapter (a "Contracted Inspector"), subject however, to the following:
- (1) Any such Contracted Inspector must at all times meet or exceed the Building Inspector Qualifications;
 - (2) Any such Contracted Inspector shall perform the duties and responsibilities of the Building Inspector in compliance with the terms and conditions of any applicable agreement between such Contracted Inspector and the Village; however in no event will a Contracted Provider take an "Officer Action".
 - (3) As used herein "Officer Action" means any one or more of the following actions:
 - (a) Execution and issuance of any "Building Inspector Document". As used herein, "Building Inspector Document" means any of the following: Building Permit, Certificate of Occupancy, operating permit, temporary certificate, stop Work orders, Notice of Violation and any other permit, certificate, order, notice or

appearance ticket authorized to be issued under this Chapter by the Building Inspector and any documents suspending or revoking any such Building Inspector Document;

(b) Pursuing administrative enforcement actions and proceedings relating to any Uncorrected Violation and legal actions and proceedings to the extent of the Building Inspector's authority under this Chapter and/or other applicable law;

(c) any other action within the scope of the Building Inspector's power and authority as provided in this Chapter that a Contracted Provider is not permitted to take under applicable law.

- D. Notwithstanding anything to the contrary set forth in this Chapter, during any time that the Village is employing or engaging a Contracted Inspector, as the case may be, any Officer Action may be taken by an Authorized Officer, but only if (i) such Officer Action has been recommended and approved by such Contracted Provider and (ii) such Officer Action is within the scope of the authority granted to such Authorized Officer by the Mayor with the approval of the Board or by resolution approved by a majority of the Board with the Mayor voting in favor thereof.
- E. The compensation for the Building Inspector and any Contracted Inspector shall be fixed from time to time by the Board.

§ 10-6. Building Permits.

- A. Building Permits required. Except as otherwise provided in § 10-6.C, a Building Permit shall be required for any Work. As used in this Chapter, "Work" means any work which is required to conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any Building or Structure or any portion thereof, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any Work without first having obtained a Building Permit from the Building Inspector.
- B. **Conformance with Zoning and Other Laws Required; Frontage Required.**
- (1) No Building Permit shall be issued for any proposed Work on any Building or Structure unless the proposed Work and use is in full conformance with the Zoning Law, and other applicable laws and regulations. Without limiting the generality of the foregoing, no Building Permit shall be issued for any use requiring a special permit, site plan approval and/or variance under the Zoning Law unless and until such permit, approval or variance, as the case may be, has been issued.
- (2) No Building Permit shall be issued upon a Lot without access to either (i) a public street or (ii) a private street which is within a Subdivision approved by the Planning Board.

- C. **Exemptions.** No Building Permit shall be required for work in any of the following categories:
- (1) Construction or installation of one story detached Structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
 - (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;
 - (5) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (6) Construction of temporary motion picture, television and theater stage sets and scenery;
 - (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (8) Installation of partitions or movable cases less than 5'-9" in height;
 - (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - (11) Replacement of any equipment, provided that the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - (12) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a Structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any Building system; or

- (d) The removal from service of all or part of a fire protection system for any period of time.
- D. **Exemption not deemed authorization to perform noncompliant Work.** The exemption from the requirement to obtain a Building Permit for work in any category set forth in § 10-6.C shall not be deemed an authorization for Work to be performed in violation of the Uniform Code or the Energy Code.
- E. **Applications for Building Permits.** Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Building Inspector. The Application shall be signed by the owner of the property where the Work is to be performed or an authorized agent of the owner. The Application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that the intended Work complies with all applicable requirements of the Uniform Code and the Energy Code. The Application shall include or be accompanied by the following information and documentation:
 - (1) A description of the proposed Work;
 - (2) The Tax Map number and the street address of the premises where the Work is to be performed;
 - (3) The existing and intended use and the occupancy classification of any existing or proposed Building(s) and/or Structures;
 - (4) The number of dwelling units the Building is designed to accommodate;
 - (5) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (6) At least two sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed Work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the Work proposed; (iv) substantiate that the proposed Work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed Buildings and Structures on the site, the location of any existing or proposed well or septic system, the location of the intended Work, and the distances between the Buildings and Structures and the lot lines; provided, however, in the case of demolition Work, the site plan shall show the Buildings or other Structures to be demolished and the location and size of existing Buildings or other Structures that are to remain on the Lot.
 - (7) Such other information with regard to the Building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of the Zoning Law
 - (8) A statement that the Applicant consents to the Building Inspector conducting Construction Inspections of the Lot or other land, Building and/or Structure pursuant to § 10-6.E(8).

- F. (Reserved)
- G. **Construction documents.** Construction documents will not be accepted as part of an Application for a Building Permit unless they satisfy the requirements set forth in § 10-6.E(6). Construction documents which are accepted as part of the Application for a Building Permit shall be marked as accepted by the Building Inspector in writing or by stamp. One set of the accepted construction documents shall be retained by the Building Inspector, and one set of the accepted construction documents shall be returned to the Applicant to be kept at the Work site so as to be available for use by the Building Inspector. However, the return of a set of accepted construction documents to the Applicant shall not be construed as authorization to commence Work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- H. **Issuance of Building Permits; Demolition Permits.**
- (1) An Application for a Building Permit shall be examined to ascertain whether the proposed Work is in compliance with the applicable Legal Requirements, including without limitation the requirements of the Uniform Code and Energy Code, this Chapter and the Zoning Law. The Building Inspector shall issue a Building Permit if the proposed Work is in compliance with the applicable requirements of the Uniform Code and Energy Code, the provisions of this Chapter and the Zoning Law. If a Building Permit is denied, the Building Inspector shall provide the Applicant with the reasons for such denial in writing.
 - (2) A Building Permit which involves only the demolition of a Building or other Structure may be referred to in the Application and other applicable documentation as a Demolition Permit.
- I. **Building Permits to be displayed.** Building Permits shall be visibly displayed at the Work site and shall remain visible until the authorized Work has been completed.
- J. **Work to be in accordance with construction documents.** All Work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the Application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Building Inspector of any change occurring during the course of the Work. The Building Permit shall contain such a directive. If the Building Inspector determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.
- K. **Time limits.** Building Permits shall become invalid unless the authorized Work is commenced within twelve (12) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this § 10-6.K may be renewed upon Application by the Permit Holder, payment of the applicable fee, and approval of the Application by the Building Inspector.

- L. **Revocation or suspension of Building Permits.** The Building Inspector is authorized to suspend or revoke a Building Permit in any one or more of the following cases:
- (1) The Building Inspector determines that a Building Permit was issued in error;
 - (2) Because of materially incorrect, inaccurate or incomplete information submitted by the Applicant or the Applicant's representative(s) to the Village in connection with the Application for the Building Permit, including without limitation false statements or misrepresentations as to a material fact in the Application or in the plans, specifications or other documents submitted in support of the Application or in support of any site plan approval, special permit or variance that was required in order for the Building Permit to be issued;
 - (3) The Building Inspector determines that the Work being performed under the Building Permit is not being carried out in accord with the Application, plans, specifications or other documents submitted by the Applicant or the Applicant's representative(s) in support of the Application or in support of any site plan approval, special permit or variance that was required in order for the Building Permit to be issued;
 - (4) Where the Person to whom a Building Permit has been issued fails or refuses to comply with a stop order issued by the Building Inspector.
 - (5) The Work for which a Building Permit was issued violates the Uniform Code or the Energy Code or otherwise constitutes a Violation.
- M. In the event that the Building Inspector revokes or suspends a Building Permit pursuant to § 10-6.L above, such revocation or suspension, as the case may be, the Building Inspector shall revoke the Building Permit or suspend the Building Permit until the Building Inspector determines that 1) all Work then completed is in compliance with all applicable provisions of the Uniform Code, the Energy Code, the Zoning Law and other applicable Legal Requirements, if any; and 2) all Work then proposed to be performed shall be in compliance with all such Legal Requirements.
- N. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 10-19 (Fees) of this Chapter must be paid at the time of submission of an Application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.
- O. **Required Survey.**
- (1) Applications for the construction of new Buildings or additions to existing Buildings shall be accompanied by an accurate survey showing the exact location of any proposed new construction and all existing Structures to remain.
 - (2) The submission of an accurate survey may be waived by the Building Inspector in the case of an interior or exterior alteration to an existing Building or Structure.

§ 10-7. Construction inspections.

- A. **Work to remain accessible and exposed.** Work shall remain accessible and exposed until inspected and accepted by the Building Inspector or by an Inspector authorized by the Building Inspector. The Permit Holder shall notify the Building Inspector when any element of Work described in § 10-7.B is ready for inspection.
- B. **Elements of Work to be inspected.** The following elements of the construction process shall be inspected, where applicable:
 - (1) Work site prior to the issuance of a Building Permit;
 - (2) Footing and foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire resistant construction;
 - (7) Fire resistant penetrations;
 - (8) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all Work authorized by the Building Permit has been completed.
- C. **Inspection results.** After inspection, the Work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the Work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such Work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.
- D. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 10-19 (Fees) of this Chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 10-8. Stop-Work orders.

- A. **Authority to issue.** The Building Inspector is authorized to issue a stop-Work order pursuant to this section to halt any Violation(s).
- B. **Content of stop-Work orders.** Stop-Work orders shall:

- (1) Be in writing;
- (2) Be dated and signed by the Building Inspector;
- (3) State the reason or reasons for issuance; and
- (4) If applicable, state the conditions which must be satisfied before Work will be permitted to resume.

C. **Service of stop-Work orders.** The Building Inspector shall attempt to cause the stop-Work order, or a copy thereof, to be served on the Violating Owner (and, if the Violating Owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Building Inspector is also authorized but not required, to attempt to cause the stop-Work order, or a copy thereof, to be served on any other Responsible Person personally or by certified mail; provided, however, that failure to serve the Owner or any other Responsible Persons shall not affect the efficacy or validity of the stop-Work order as to the Owner or any other Responsible Person who has been served with such stop-Work order as provided in this § 10-8.C.

D. **Effect of stop-Work order.** Upon the issuance of a stop-Work order, the Violating Owner, the Permit Holder and any other Person performing, taking part in or assisting in the Work shall immediately cease all Work which is the subject of the stop-Work order.

E. **Remedy not exclusive.** The issuance of a stop-Work order shall not be the exclusive remedy available to address a Violation, and the authority to issue a stop-Work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 10-18 (Violations; penalties for offenses) of this Chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-Work order.

§ 10-9. **Certificates of Occupancy.**

A. **Certificates of Occupancy required.** A Certificate of Occupancy shall be required for any Work and for all Structures, Buildings, or portions thereof which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a Building or Structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy.

B. **Issuance of Certificate of Occupancy.** The Building Inspector shall issue a Certificate of Occupancy if the Work which was the subject of the Building Permit was completed in accordance with each of the following: (i) the construction documents submitted by the Applicant as amended and approved by the Building Inspector; (ii) conditions or specifications of any applicable site plan or special permit approval; (iii) all applicable provisions of the Uniform Code and the Energy Code, this Chapter, the Zoning Law and any other applicable laws and regulations, and, (iv) if applicable, that the Structure, Building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies

with all applicable provisions of the Uniform Code and Energy Code. The Building Inspector or an Inspector authorized by the Building Inspector shall inspect the Building, Structure or Work prior to the issuance of a Certificate of Occupancy. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the Applicant for the Certificate of Occupancy, shall be provided to the Building Inspector prior to the issuance of the Certificate of Occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

C. **Contents of Certificate of Occupancy.** A Certificate of Occupancy shall contain the following information:

- (1) The Building Permit number, if any;
- (2) The date of issuance of the Building Permit, if any;
- (3) The name address and Tax Map number of the property;
- (4) If the Certificate of Occupancy is not applicable to an entire Building or Structure, a description of that portion of the Building or Structure for which the Certificate of Occupancy is issued;
- (5) The use and occupancy classification of the Building or Structure;
- (6) The type of construction of the Building or Structure;
- (7) The assembly occupant load of the Building or Structure, if any;
- (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) Any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) The signature of the Building Inspector issuing the Certificate of Occupancy and the date of issuance.

D. **Temporary certificate.** The Building Inspector shall be permitted to issue a temporary certificate allowing the temporary occupancy of a Building or Structure, or a portion thereof, prior to completion of the Work which is the subject of a Building Permit. However, in no event shall the Building Inspector issue a temporary certificate unless the Building Inspector determines 1) that the Building or Structure, or the portion thereof covered by the temporary certificate, may be occupied safely, 2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and 3) that all required means of egress from the Building or Structure have been provided. The Building Inspector may include in a temporary

certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A temporary Certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Building Inspector and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the Permit Holder shall undertake to bring the Building or Structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- E. **Revocation or suspension of certificates.** If the Building Inspector determines that a Certificate of Occupancy or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Building Inspector within such period of time as shall be specified by the Building Inspector, the Building Inspector is authorized to revoke or suspend such certificate.
- F. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 10-19 (Fees) of this Chapter must be paid at the time of submission of an Application for a Certificate of Occupancy or for a temporary certificate.

§ 10-10. Notification regarding fire or explosion.

The Chief of any fire department providing firefighting services for a property within this Village shall promptly notify the Building Inspector of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

§ 10-11. Unsafe Building and Structures.

- A. An “Unsafe Structure” means any Building or Structure which the Building Inspector determines: (i) to be structurally unsafe, insanitary or not provided with adequate egress, or to constitute a fire hazard or otherwise is dangerous to human life, or which in relation to existing use constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are, severally.
- B. All Unsafe Structures are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure of this § 10-11.
- C. The Building Inspector shall inspect or cause to be inspected every Unsafe Structure of which the Building Inspector becomes aware and shall make a written record of such examination.
- D. Whenever the Building Inspector shall find any Building or Structure or portion thereof to be an Unsafe Structure, the Building Inspector shall issue a Notice of Violation in accordance with § 10-18.A.
- E. If the Building Inspector finds that there is actual and immediate danger of failure or collapse so as to endanger life, such notice shall also require the Building, Structure, or portion thereof to be vacated forthwith and not reoccupied until the specified repair and improvements are completed, inspected and approved by the Building Inspector. The Building Inspector shall cause to be posted at each entrance to such Building a

notice: THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE BUILDING INSPECTOR. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other persons, to remove such notice without written permission of the Building Inspector, or for any person to enter the Building except for the purpose of making the required repairs or of demolishing same.

- F. In case the owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control fails, neglects or refuses to comply with the notice to repair, rehabilitate or demolish and remove said Building or Structure or portion thereof, the Village Attorney shall be advised of all the facts in the case and, subject to the approval of the Board, shall be authorized to institute an appropriate action in a court of competent jurisdiction to compel compliance.
- G. In cases of emergency which, in the opinion of the Building Inspector, involve imminent danger to human life or health, the Building Inspector shall promptly cause such Building, Structure or portion thereof to be made safe or to be removed. For this purpose, he may at once enter such Structure or Lot or other land on which it stands, or abutting Lot or other land or Structure, with such assistance and at such cost as may be necessary. He may vacate adjacent Structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private way.
- H. Costs incurred under § 10-11.F and § 10-11.G, including reasonable attorneys fees of the Village's attorney, shall be paid out of the Village treasury on certificate of the Building Inspector. Such costs shall be assessed against the Lot or other land on which said Building or Structure is located and shall be and become a lien on said Lot or other land, as the case may be, as of the date of such assessment. The lien of the Village for such cost and expenses shall have priority over all other liens and encumbrances, except the liens of taxes and assessments which constitute prior liens.

§ 10-12. Operating permits.

- A. **Operation permits required.** Operating permits shall be required for conducting any activity listed in § 10-12.A(1), (2) or (3) below or operating any type of Building or Structure listed in § 10-12.A(4), or (5), below:
 - (1) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3), 5003.1.1(4) of the 2015 Edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225);
 - (2) Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
 - (3) Use of pyrotechnic devices in assembly occupancies;

- (4) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (5) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of this Village. Any person who proposes to undertake any activity or to operate any type of Building listed in this § 10-12.A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. **Applications for operating permits.** An Application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Building Inspector. Such Application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Building Inspector determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Building Inspector, at the expense of the Applicant. Such Application shall include a statement that the Applicant consents to the Building Inspector conducting inspections pursuant to § 10-12.C.
- C. **Inspections.** The Building Inspector or an Inspector authorized by the Building Inspector shall inspect the subject premises prior to the issuance of an operating permit.
- D. **Multiple activities.** In any circumstance in which more than one activity listed in § 10-12.A is to be conducted at a location, the Building Inspector may require a separate operating permit for each such activity, or the Building Inspector may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. **Duration of operating permits.** Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Building Inspector to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon Application to the Building Inspector, payment of the applicable fee, and approval of such Application by the Building Inspector.
- F. **Revocation or suspension of operating permits.** If the Building Inspector determines that any activity or Building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 10-19 (Fees) of this Chapter must be paid at the time submission of an Application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

§ 10-13. Fire safety and property maintenance inspections.

- A. **Inspections required.** Fire safety and property maintenance inspections of Buildings and Structures shall be performed by the Building Inspector or an Inspector designated by the Building Inspector at the following intervals:
- (1) Fire safety and property maintenance inspections of Buildings or Structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
 - (2) Fire safety and property maintenance inspections of Buildings or Structures being occupied as dormitories shall be performed at least once every twelve (12) months.
 - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in § 10-13.A(1) or § 10-13.A(2), and all nonresidential Buildings, Structures, uses and occupancies not included in § 10-13.A(1); or § 10-13.A(2), shall be performed at least once every thirty six (36) months.
- B. **Inspections permitted.** In addition to the inspections required by § 10-13.A, a fire safety and property maintenance inspection of any Building, Structure, use, or occupancy, or of any dwelling unit, may also be performed by the Building Inspector or an Inspector designated by the Building Inspector at any time upon; the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Building Inspector of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or receipt by the Building Inspector of any other information, reasonably believed by the Building Inspector to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- C. **OFPC inspections.** Nothing in this section or in any other provision of this Chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:
- (1) The Building Inspector shall not perform fire safety and property maintenance inspections of a Building or Structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such Building or Structure at least once every twelve (12) months;
 - (2) The Building Inspector shall not perform fire safety and property maintenance inspections of a Building or Structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such Building or Structure at least once every twelve (12) months;
 - (3) The Building Inspector shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in § 10-13.A(1) or § 10-

13.A(2) if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in § 10-13.A(3); and

- (4) The Building Inspector shall not perform fire safety and property maintenance inspections of a nonresidential Building, Structure, use or occupancy not included in § 10-13.A(1) or § 10-13.A(2) if OFPC performs fire safety and property maintenance inspections of such nonresidential Building, Structure, use or occupancy at intervals not exceeding the interval specified in § 10-13.A(3).

- D. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 10-19 (Fees) of this Chapter must be paid prior to or at the time each inspection is performed pursuant to this section.

§ 10-14. Complaints.

- A. The Building Inspector shall review and investigate complaints which allege or assert the existence of conditions or activities that constitute a Violation. The process for responding to a complaint shall include such of the following steps as the Building Inspector may deem to be appropriate:
 - (1) Performing an inspection of the conditions and/or activities alleged to be a Violation, and documenting the results of such inspection;
 - (2) If a Violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the Violation with a Notice of Violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 10-18 (Violations; penalties for offenses) of this Chapter;
 - (3) If appropriate, issuing a stop-Work order;
 - (4) If a Violation which was found to exist is abated or corrected, performing an inspection to ensure that the Violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

§ 10-15. Reserved.

§ 10-16. Recordkeeping.

- A. The Building Inspector shall keep permanent official records of all transactions and activities conducted by the Building Inspector and Inspectors including records of:
 - (1) All Applications received, reviewed and approved or denied;
 - (2) All plans, specifications and construction documents approved;
 - (3) All Building Permits, Certificates of Occupancy, temporary certificates, stop-Work orders, and operating permits issued;

- (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All other features and activities specified in or contemplated by § 10-6 through § 10-14, inclusive, of this Chapter, including; and
 - (9) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to Buildings or Structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.
 - C. A record of all Certificates of Occupancy shall be kept in the office of the Village Clerk.

§ 10-17. Program review and reporting.

- A. The Building Inspector shall annually submit to the Board Village a written report and summary of all business conducted by the Building Inspector and the Inspectors, including a report and summary of all transactions and activities described in § 10-16 (Recordkeeping) of this Chapter and a report and summary of all appeals or litigation pending or concluded. The Building Inspector shall also submit to the Board such additional reports at such time and in such form as may be requested by the Board from time to time.
- B. The Building Inspector shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- C. The Building Inspector shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

§ 10-18. Violations; penalties for offenses.

- A. **Notice of Violation.** Upon a finding by the Building Inspector that there is reasonable grounds to believe that a Violation exists, the Building Inspector is authorized to issue a Notice of Violation to any one or more Responsible Persons. Failure to issue a Notice of Violation to one or more Responsible Persons shall not invalidate any Notice of Violation issued to any other Responsible Person or Responsible Persons.
- B. **Contents of Notice of Violation.**

- (1) The Notice of Violation shall be in writing, and shall:
 - (a) be dated and signed by the Building Inspector;
 - (b) set forth the address and/or tax identification number of the Premises in Violation;
 - (c) specify the condition or activity that constitutes the Violation;
 - (d) specify the provision or provisions of the Uniform Code, the Energy Code, this Chapter, the Zoning Law or other Legal Requirement, as the case may be, that has been or is being violated;
 - (e) order that the Violation be corrected and specify the time period within which such correction must be completed. Including the following language in the Notice of Violation will satisfy this subparagraph (e):

“The person or entity served with this Notice of Violation must completely remedy each violation of law or regulation as described in this Notice of Violation by _____ [specify date that the Building Inspector has determined is reasonably necessary to correct the Violation] (“Required Correction Date”)”
 - (f) specify the actions required to be taken in order to remedy the Violation (“Corrective Action”);
 - (g) state that an action or proceeding to compel compliance with this Notice of Violation may be instituted if correction of the violation is not achieved on or before the Required Correction Date (including, but not limited to, the imposition of criminal or civil penalties hereunder).
 - (h) If the Violation includes that the Building or other Structure is an Unsafe Structure, then the Notice of Violation shall also state that, on or before the Correction Date, the Corrective Action must be completed or the Unsafe Structure must be demolished and all debris removed.
- (2) **Stop Work Order.** The Building Inspector is authorized to include in such Notice of Violation a stop-Work order as described in § 10-8 of this Chapter. This paragraph b. shall not be deemed to limit the authority of the Building Inspector to issue a stop Work orders under circumstances not requiring a Notice of Violation.
- (3) The Building Inspector may include in the Notice of Violation provisions ordering the Responsible Person or Responsible Persons, as the case may be:
 - (a) To begin to remedy the Violation described in the Notice of Violation immediately, or within some other specified period of time which may be less than time period specified for correction therein; to continue diligently to remedy such Violation until it is fully remedied; and, in

any event, to complete the remedying of all such Violations within the time period specified in the Notice of Violation.

- (b) To take such other protective actions (such as vacating the Building or barricading the area where the Violation exists) which are authorized by this Chapter or by any other applicable statute, regulation, rule, local law or ordinance, and which the Building Inspector may deem appropriate, during the period while such Violation are being remedied.
- (4) A Notice of Violation shall not be deemed defective so long as it substantially complies with the requirements of this § 10-18.
- C. **Manner of Service of Notice of Violation.** A Notice of Violation in order to be effective against a given Responsible Person shall be served upon such Responsible Person either personally or by certified mail. Failure to serve one or more Responsible Persons with a Notice of Violation shall not be deemed to invalidate service of such Notice of Violation upon any other Responsible Person or Responsible Persons.
- D. **Appearance Tickets.** For any Violation, the Building Inspector is authorized to issue appearance tickets to the Responsible Person or Responsible Persons, as the case may be, returnable in any court of competent jurisdiction.
- E. **Penalties.**² In the event that the Building Inspector determines that a Violation specified in a Notice of Violation has not been fully corrected on or before the date specified for such correction in the Notice of Violation (“Correction Date”), then such Violation shall be deemed to be an uncorrected violation (“Uncorrected Violation”). With respect to any Uncorrected Violation, each Responsible Person who has been served with a Notice of Violation with respect to Violation which becomes an Uncorrected Violation shall be guilty of a violation as provided in this Chapter shall for (a) a first offense be guilty of a violation as defined in Penal Law §55.10 (3) and subject to a fine of not less than \$500 and not more than \$2,000 or to imprisonment for up to fifteen (15) days, or both; (b) for a second offense be guilty of an unclassified misdemeanor as defined in Penal Law §55.10(2)(c) and subject to a fine of not less than \$1,000 and not more than \$4,000 or imprisonment for up to thirty (30) days, or both; and (c) for the third and all subsequent offenses be guilty of an unclassified misdemeanor and subject to a fine of not less than \$4,000 and not more than \$6,000 or imprisonment for up to sixty (60) days, or both.³ Each and every day that any Uncorrected Violation continues beyond the Correction Date shall constitute a separate offense. In addition to the above penalties, the Responsible Person or Responsible Persons, as the case may be, shall be jointly and severally liable to the

² See Municipal Home Rule Law §10(4)(b) (the legislative body of a local government shall have power: ...4. In the exercise of its powers to adopt and amend local laws, the legislative body of a local government shall have power:...(b) To provide for the enforcement of local laws by legal or equitable proceedings which are or may be provided or authorized by law, to prescribe that violations thereof shall constitute misdemeanors, offenses or infractions and to provide for the punishment of violations thereof by civil penalty, fine, forfeiture, community service,...)

³ The NY Penal Law §80.05 (4) authorizes the Village to impose fines for violations of its local laws which exceed the maximum amount imposed by similar state law. See, *People v Karns*, 365 N.Y.S.2d 725, 735 (N.Y. City Ct., Mar. 18, 1975).

Village for all of its costs and expenses, including without limitation reasonable attorney's fees, incurred in determining, issuing and/or prosecuting such Uncorrected Violation, including without limitation, in any action or proceeding relating to an Uncorrected Violation which is initiated by the Village against one or more Responsible Persons, whether criminal and/or civil.

For the purposes of conferring jurisdiction upon courts and judicial officers generally, Violations which constitute a "violation", as such term is defined in Penal Law §55.10 (3) shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations.

- F. **Remedies Not Exclusive.** No remedy or penalty specified in this Chapter shall be the exclusive remedy or penalty available to address any Violation, and each remedy or penalty for any Uncorrected Violations as specified in this § 10-18 shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this Chapter, in any other Articles of this Chapter, or under any other applicable law, including without limitation, the remedies specified in Village §7-714 and in Subdivision (2) of § 382 of the Executive Law or any regulations promulgated thereunder. Any remedy or penalty specified in this Chapter may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Chapter or under any other applicable law. Without limiting the generality of the foregoing, the Village may simultaneously maintain an injunctive action in Supreme Court and a prosecution in Justice Court.
- G. Nothing contained herein shall be deemed to invalidate any Notice of Violation issued by the Building Inspector at any time prior to the effective date of this local law ("Prior Violation"); provided, however, that all of the Village's rights and remedies, including without limitation those specified in § 10-18.D through § 10-18.F shall fully apply to any such Prior Violation which has not been fully corrected prior to such effective date of this Chapter.
- H. **Injunctive relief.** An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any Violation, and/or to obtain an order directing the removal of the Building or Structure or an abatement of the condition resulting in such Violation. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Board.

§ 10-19. Fees.

A fee schedule applicable to permits and certificates issued and inspections made hereunder shall be established and may be amended from time to time by resolution of the Board pursuant to §98-53 of the Zoning Law as amended by Local Law #2 of the Year 2021 entitled "A Local Law regarding Reimbursement of Professional Fees incurred by the Village in Connection with Land use Applications". The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of Applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, temporary certificates, operating permits, construction inspections, fire safety and property maintenance inspections, and other actions of

the Building Inspector described in or contemplated by this Chapter. For the avoidance of doubt all provisions of Local Law #2 of the Year 2021, including provisions regarding reimbursement of professional fees shall also apply to permits, certificates, inspections and other actions hereunder.

§ 10-20. Intermunicipal agreements.

The Board may, by resolution, authorize the Mayor to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this Chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

§ 10-21. Severability, Savings Clause, Inconsistencies

If any section of this Chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this Chapter.

In addition, to the maximum extent permitted by law, this Chapter shall be interpreted so as to comply with the requirements of 19 NYCRR Section 1203.3 (minimum features of a program for administration and enforcement of the Uniform Code) and any other state laws or regulations applicable to this Chapter.

In the event of any inconsistencies between this Chapter and the Zoning Law or any other local law of the Village enacted prior to the effective date of this Chapter, the terms of this Chapter shall prevail and be controlling.

§ 10-22. When effective.

This Chapter shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law.

Schedule "A"

19 NYCRR § 1208-2.2. Minimum standards for local governments, counties and State agencies

(a) General. Building Safety Inspectors and Code Enforcement Officials designated by Local Governments, counties or State agencies for administration and enforcement of the Uniform Code, Energy Code, or portions thereof, shall be certified pursuant to 1208-3.1 or 1208-5.4 of this Part. A local government, county or State agency responsible for administration and enforcement of the Uniform Code and/or the Energy Code shall provide the opportunity for training and certification for the designated building safety inspector and/or code enforcement official pursuant to this Part.

(b) Exceptions. Notwithstanding the provisions of section 1208-2.1 of this Subpart and subdivision (a) of this section:

(1) A person who has commenced, but not completed, the building safety inspector basic training program described in section 1208-3.2(b) of this Part may, during such person's basic training period (as that term is defined in paragraph (3) of this subdivision), perform building safety inspector enforcement activities on behalf of the local government, county or State agency by which such person is employed, provided that:

(i) such local government, county or State agency designates such person to perform building safety inspector enforcement activities on behalf of such local government, county or State agency; and

(ii) such person is progressing toward completion of the building safety inspector basic training program at a rate which, in the judgment of the local government, county or State agency by which such person is employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the building safety inspector basic training program within his or her basic training period, he or she shall not be permitted to perform any building safety inspector enforcement activities until and unless he or she does successfully complete such program.

(2) A person who has commenced, but not completed, the code enforcement official basic training program described in section 1208-3.2(c) of this Part may, during the such person's basic training period (as that term is defined in paragraph (3) of this subdivision), perform code enforcement official enforcement activities on behalf of the local government, county or State agency by which such person is employed, provided that:

(i) such local government, county or State agency designates such person to perform code enforcement official enforcement activities on behalf of such local government, county or State agency; and

(ii) such person is progressing toward completion of the code enforcement official basic training program at a rate which, in the judgment of the local government, county or State agency by which such person is employed, will assure that such person will complete such program within such person's basic training period. If such person fails to complete the code enforcement official basic training program within his or her basic

training period, he or she shall not be permitted to perform any code enforcement official enforcement activities until and unless he or she does successfully complete such program.

(3) For the purposes of paragraphs (1) and (2) of this subdivision, the term basic training period shall mean the period within which a person must complete a basic training course, as determined in accordance with section 1208-3.2(d) of this Part.

(4) If any local government or county establishes and maintains standards of code enforcement training which, in the opinion of the Secretary, are equal to or higher than those established by this Part, the Secretary may exempt building safety inspectors and/or code enforcement officials employed by such local government or county from satisfaction of the training requirements established by this Part, provided that such building safety inspectors and/or code enforcement officials satisfy the basic training requirements and continuing training requirements established by such local government or county. Any such exemption shall be in writing, signed by the Secretary or the Secretary's designee, and shall be subject to such terms and conditions as the Secretary may prescribe. Any such exemption may be revoked by the Secretary, in whole or in part, if, in the opinion of the Secretary, the standards of code enforcement training established and maintained by such local government or county are or become lower than those established by this Part.

(c) Other requirements. Nothing in this section shall be construed as negating or limiting the applicability of any other law, statute, rule, regulation or ordinance imposing any residency requirement or other requirement or limitation on the hiring of building safety inspectors and/or code enforcement officials.

(d) Other minimum standards. This section specifies only those minimum standards that relate to training of building safety inspectors and code enforcement officials. Nothing in this section shall be construed as limiting the applicability of any minimum standard set forth in Part 1201, Part 1202, Part 1203 and/or Part 1204 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

DATED: Pawling, New York
_____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—

Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Gerald Locascio	—	—	—
Trustee Tom Meyer	—	—	—
 TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: May 2, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the ____ day of May, 2022, at 7:00 PM

RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Local Law No. 3 for the year 2022 which confirms the correct version of the comprehensive plan for the Village of Pawling;

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Gerald Locascio
- __ Trustee Thomas Meyer

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce and set a date for the public hearing on the following proposed local law:

Local Law No. 3 for the year 2022 entitled “Confirmation of the correct comprehensive plan for the Village of Pawling”

Purpose

The purpose of this law is to confirm the correct version of the comprehensive plan for the Village of Pawling for all purposes.

Background

In December of 1994, the Village adopted a comprehensive plan pursuant to Village Law 7-722 by enacting local law no 4 for the year 1994 (the “Adopted Plan”). The Adopted Plan was filed as a local law with the New York Secretary of State’s office on March 24, 1995. The Adopted Plan was signed by the Village Attorney and the Village

Clerk and became effective upon its filing with the New York Secretary of State on March 24, 1995 pursuant to Municipal Home Rule Law § 27, which provides that a local law becomes effective upon its filing with the New York Secretary of State. The Adopted Plan contains a certification from the former Village Clerk, Cheryl Harrington as follows: "I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript thereof and the whole of such original local law and was finally adopted in the manner indicated in paragraph 1 above." The Adopted Plan also contains the certification by Village Attorney David Daniels that "the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto." The Draft Plan does not contain either of these certifications.

NOW, THEREFORE,

1. A copy of the Adopted Plan is attached to and made a part of this local law as Exhibit "A".
2. The Adopted Plan, as amended from time to time, is hereby confirmed to be the comprehensive plan for the Village of Pawling, having been adopted by the Board of Trustees of the Village of Pawling as Local Law No 4 of 1994 and having become effective on March 24, 1995, the date it was filed with the New York Secretary of State.
3. Any reference to the comprehensive plan in Chapter 98, Zoning Law of the Village of Pawling, shall be deemed to refer to the Adopted Plan, as amended.
4. In accord with Municipal Home Rule Law §27(3), this local law shall be effective as of the date that it is filed with the Secretary of State.

Pursuant to the Municipal Home Rule Law of the State of New York, it is necessary to hold a public hearing upon this proposed local law.

WHEREAS, Trustee _____ has introduced the following proposed local law for the Village of Pawling: Village of Pawling Local Law No.3 for 2022, entitled “Local Law No. 3 for the year 2022 entitled “Confirmation of the correct comprehensive plan for the Village of Pawling”

BE IT RESOLVED, that a public hearing be held in relation to the proposed Local Law as set forth in the form of notice, hereinafter provided, at which hearing parties in interest shall have an opportunity to be heard, to be held at the Village Hall on _____ 2022 at 7 o'clock p.m., and that notice of said hearing shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on _____, 2022, at 7 o'clock p.m., on proposed Local Law No. 1 of 2022, entitled “Local Law No. 3 for the year 2022 entitled “Confirmation of the correct comprehensive plan for the Village of Pawling”; and

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York, during normal business hours on all business days between the date of this notice and the date of the public hearing.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
_____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

<u>Abstain</u>	<u>Aye</u>	<u>Nay</u>
_____ Mayor Lauri Taylor	_____	_____
_____ Trustee Daniel Peters	_____	_____
_____ Trustee John Burweger	_____	_____
_____ Trustee Gerald Locascio	_____	_____
_____ Trustee Tom Meyer	_____	_____
_____ TOTAL	_____	_____

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022.

Date: _____, 2022

Jennifer Osborn, Village Clerk

At a Meeting of the Village of Pawling Board of Trustees held at Village Hall, 9 Memorial Avenue, Pawling, New York, on the __ day of ____, 2022, at 7:00 PM.

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF PAWLING

Identifier: Introducing Local Law No ⁴ 3 for the year 2022 to be known as “Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals”

The meeting was called to order by Mayor Lauri Taylor and the following were:

P R E S E N T:

- __ Mayor Lauri Taylor
- __ Trustee Daniel Peters
- __ Trustee John Burweger
- __ Trustee Tom Meyer/
- __ Trustee Gerald Locascio

Trustee _____ moved the following resolution, seconded by Trustee _____, to introduce Local Law No ⁴ 3 for the year 2022 to be known as “Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals” and to set a date for the public hearing on this proposed local law:

BE IT ENACTED by the Board of Trustees of the Village of Pawling as follows:

Local Law No ⁴ 3 for the year 2022 to be known as “**Procedures for determination and payment of reasonable and necessary fees relating to Applications for Land Use Approvals**”

1. **Certain Definitions.** As used in this local law:

- a. “Applicant” means a Person who submits an Application for Land Use Approval.
- b. “Application Review Process” means an Approval Board’s review of an Application for Land Use Approval.
- c. “Application for Land Use Approval” means any application submitted by an Applicant to an Approval Board seeking one or more Land Use Approvals

with respect to real property located in the Village.

- d. "Approval Board" means any board of the Village with authority to issue a Land Use Approval, including without limitation, the Board, the Planning Board and the Zoning Board of Appeals.
- e. "Board" or "Board of Trustees" means the Board of Trustees of the Village.
- f. "Chapter 10-A" means Chapter 10-A of the Code of the Village of Pawling enacted by Local Law No 2 of the year 2022 and known as "Building Code Administration and Enforcement Procedures for Buildings and Zoning".
- g. "Chapter 98" means Chapter 98 of the Code of the Village known as the "Zoning Law".
- h. "Claimed Amount" means the amount billed by a Professional to the Village for Professional Fees.
- i. "Comparable Municipality" means a Village or Town which meets each of the following criteria:
 - i. It is located in New York State;
 - ii. It is located within a one hundred (100) mile radius of the Village; and
 - iii. It has a population of no less than 500 and no more than 15,000 people;
- j. "Effective Date" means the date on which this Local Law was filed with the New York State Secretary of State.
- k. "Escrow Amount" means any amount paid by an Applicant to the Village, as escrowee, whether as an initial or subsequent deposit, in order to provide funds to pay Reasonable and Necessary Fees related to the Applicant's Application for Land Use Approvals.
- l. "Escrow Account" has the meaning set forth in Section 8.d
- m. "Estimated Fee" shall have the meaning set forth in Section 8.a.
- n. "Land Use Approval" means any approval of a Land Use Application by an Approval Board pursuant to Chapter 98 or any other law, rule or regulation, including but not limited to site plan approval, subdivision approval, special use permit, zoning amendments, use variance, area variance, zoning interpretation and any other application to an Approval Board which is within the jurisdiction of such Approval Board and for which Professional Fees may lawfully be charged by the Approval Board to an Applicant.
- o. "this Local Law" means this local law number No.4 for the year 2022.
- p. "Pending Dispute" has the meaning set forth in Section 7.b

- q. “ Person” means an individual , a partnership, a corporation, a limited liability company, a trustee, a trust and any unincorporated entity.
- r. “Planning Board” means the Planning Board for the Village.
- s. “Professional” means of the following: engineer, lawyer, architect, landscape designer, surveyor, municipal planner, environmental consultant and related professionals.
- t. “Professional Fee” means a fee for services rendered by a Professional to an Approval Board in connection with the Approval Board’s review of an Application for Land Use Approval.
- u. “Reasonable and Necessary Fee” has the meaning set forth in Section 8.c.
- v. “Reviewer” means (i) the Mayor if the Approval Board is the Board of Trustees or (ii) the Chairperson of the Approval Board if the Approval Board is the Planning Board or Zoning Board of Appeals.
- w. “Section” means a numbered section of this Local Law.
- x. “Village” means the Village of Pawling
“Zoning Board of Appeals” means the Zoning Board of Appeals for the Village.

- 2. **Local Law No 2 for the Year 2021** regarding reimbursement of professional fees incurred by the Village in connection with land use applications is hereby repealed.
- 3. **Article X of Chapter 98 entitled “Fees”** is repealed; provided however, for the avoidance of doubt, this Local Law shall not affect in any way the repeal of Local Law # 3 of 1987 as provided in former §98-57 of Chapter 98.
- 4. Article X of Chapter 98 is reserved for future use.
- 5. **Section 10-19 of Chapter 10-A entitled “Fees”** is amended to read as follows:

“10-19. Fees for permits, certificates and inspections.

A fee schedule applicable to permits and certificates issued and inspections made under this Chapter 10-A shall be established and may be amended from time to time by resolution of the Board. The applicable fee set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application, the issuance of any Building Permit, any amended Building Permit, any renewed Building Permit, any Certificate of Occupancy, any temporary certificate, operating permit, construction inspection, fire safety and property maintenance inspection, and other action of the Building Inspector for which a fee is set forth on such fee schedule. No permit or

certificate shall be issued and no inspection shall be performed by the Building Inspector until the Applicant has paid to the Village of Pawling the appropriate fee as provided in the fee schedule. The Board shall review such fee schedule from time to time to ensure that such fees are no greater than the amount which the Board has estimated in good faith to be reasonably necessary to cover the costs of issuance, inspection and enforcement; however exact congruence between total expenses and total fees for permits, certificates and inspections is not required.”

6. Application Fees for Application for Land Use Approvals.

- a. A schedule of fees payable for Applications for Land Use Approvals shall be established and may be amended from time to time by resolution of the Board of Trustees. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of any Application for Land Use Approval.
- b. An Applicant shall not be placed on an Approval Board’s agenda until the Applicant has paid to the Village the appropriate fee as provided in the fee schedule (in addition to submitting any other documentation as may be required by law).

7. Applicability. This local law shall apply to:

- a. all Applications for Land Use Approvals pending before any Approval Board as of the Effective Date and all Applications for Land Use Approval submitted thereafter;
- b. all Professional Fees with respect to which any dispute is pending between an Applicant and the Village on the Effective Date, including, but not limited to, any declaratory judgment action, Article 78 Proceeding, action for disallowance and/or refund of fees and/or other litigation (each, a “Pending Dispute”); and
- c. any determination or re-determination of Professional Fees charged to an Applicant by the Village at any time prior to the Effective Date upon the direction of a court of competent jurisdiction declaring or otherwise ruling that any fees or expenses imposed under this Local Law or any predecessor statute were improperly imposed, unconstitutional, or otherwise invalid;

8. Estimates and Payments of Professional Fees Relating to Applications for Land Use Approval..

- a. As soon as practical after an Applicant’s submission of a completed Application for Land Use Approval to an Approval Board, the Reviewer shall make a good

faith estimate of the Professional Fees, if any, required for such Application for Land Use Approval (“Estimated Fee”).

- b. Prior to establishing an Estimated Fee, the Reviewer must make a determination that such Estimated Fee is a “Reasonable and Necessary Fee” as defined in Section 8.c and issue to the Applicant written notice of such determination.
- c. A “Reasonable and Necessary Fee” means a fee that has been determined in good faith by the Reviewer or Board of Trustees, as the case may be, to meet each of the following conditions:
 - i. The fee is reasonable and necessary to the Approval Board’s review and carrying out of its decision making function with respect to the Application for Land Use Approval in accord with applicable law and after taking into consideration the size, type and number of buildings and/or structures to be constructed, the topography of the site at issue, environmental conditions at such site, the infrastructure proposed in the Application for Land Use Approval, the project cost, and the complexity of the legal, engineering and/or planning issues presented by the Application for Land Use Approval to the extent that they bear upon the reasonableness and necessity of the given fee; and
 - ii. The fee bears a reasonable relationship to the average fees paid for similar professional services by applicants for comparable land use approvals in Comparable Municipalities, with such determination to be confirmed by surveys of such expenses which are deemed reliable;
 - iii. The fee does not fulfill any purpose other than to reimburse the Village for reasonable and necessary Professional Fees incurred by the Approval Board in connection with the review of the Application for Land Use Approval; and
- d. Following the Reviewer’s issuance of the determination that an Estimated Fee is a Reasonable and Necessary Fee, the Reviewer shall advise the Applicant in writing as to the amount of such Estimated Fee, and within ten (10) days thereafter, the Applicant shall deposit the Estimated Fee into a non-interest bearing escrow account maintained by the Village for deposits in escrow by Applicants and for payments of Professional Fees (“Escrow Account”).
- e. An Application for Land Use Approval shall not be deemed complete unless and until the Applicant has paid the Estimated Fee in escrow to the Village as

provided above.

- f. The Estimated Fee for a given Application for Land Use Approval must be paid prior to the consideration of such Application for Land Use Approval by the Approval Board or prior to the continuation of such consideration, as the case may be.

9. Payment of Professional Fees.

- a. Payments to the Village from the Escrow Account as reimbursement for Professional Fees shall be made at the direction of the Reviewer from time to time, but only after the Reviewer has made a Determination that the Fee is Reasonable and Necessary Fee as provided in Section 8.c
- b. Upon completion of the Approval Board's review of an Application for Land Use Approval or upon the withdrawal of an Application for Land Use Approval, and after payment from the Escrow Account of all Professional Fees already incurred by the Village and approved by the Reviewer as provided in Section 9 a have been paid and deducted from the Escrow Account, any balance remaining in the Escrow Account shall be refunded to the Applicant within 30 days after the Applicant's request.

10. Additional Payments into Escrow. If at any time during the processing of an Application for Land Use Approval, the Reviewer estimates that the aggregate amount paid by the Applicant for deposit into the Escrow Account will be insufficient to meet the Professional Fees yet to be incurred, the Reviewer shall direct the Applicant to pay an additional Reasonable and Necessary Fee whereupon the Applicant will be required to pay such additional amount to the Village for deposit into the Escrow Account within ten (10) days thereafter. Until payment of such additional amount is made by the Applicant to the Village, the Approval Board shall not continue to consider, or review the Application for Land Use Approval.

11. Notice of Determination.

- a. The Reviewer shall provide the Applicant with written notice of any determination as to the amount of any Estimated Fee, additional fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively. Such notice shall include copies of any vouchers with respect to any Claimed Fees which have been submitted to the Village by the applicable Professional. In addition, within fifteen (15) day after a written request from the Applicant, the Reviewer shall provide the Applicant with written documentation, if any, relied upon in whole or in part by the Reviewer in connection the Reviewer's determination that the given fee is a Reasonable and

Necessary Fee .

12. Appeal Right .

- a. An Applicant shall have the right to appeal to the Board of Trustees any determination by a Reviewer as to the amount of any Estimated Fee, additional fee or Claimed Fee as provided in Sections 8, 9 and 10 respectively by giving written notice to the Village Clerk. Such notice must be delivered to the Village Clerk by certified mail, return receipt requested on or before the last day of the thirty (30) day period immediately following the date that the Village mails notice to the Applicant of a Reviewer's determination as to the amount of any Estimated Fee, additional fee or Claimed Fee.
- b. Such appeal before the Board of Trustees is a prerequisite to any suit, action or proceeding by the Applicant in any court with respect challenging the amount of any Estimated Fee, additional fee or Claimed Fee. Such right to appeal shall be deemed waived and shall be null and void if the Applicant does not request such hearing by notice to the Village within the aforesaid 30-day period.
- c. Any determination by a Reviewer establishing the amount of an Estimated Fee or approving payment of a Claimed Fee, shall be made in writing and delivered to the Board of Trustees together with any surveys or other documentation supporting such determination.
- d. With respect to any Claimed Fee approved by the Reviewer, the Reviewer shall also provide the Board of Trustees with any bills and/or vouchers submitted to the Village by the Professional seeking payment of the Claimed Fee.
- e. The Board of Trustees shall audit the Claimed Fee pursuant to Village Law 5-524.
- f. In addition to any audit or other conditions legally required in connection with the Board of Trustees's approval to pay a Claimed Fee, such Claimed Fee shall not be approved for payment by the Board of Trustees unless the Board of Trustees reviews and adopts a resolution approving the Reviewer's determination that the Claimed Fee is a Reasonable and Necessary Fee. .
- g. In the event that the Mayor has served as the Reviewer with respect to any Estimated Fee, additional fee or Claimed Fee and the Reviewer's determination is appealed to the Board of Trustees as provided herein, , the Mayor shall abstain from voting on any determination by the Board of Trustees as to whether the Estimated Fee, additional fee or Claimed Fee, as the case may be, is a Reasonable and

Necessary Fee.

- h. In connection with an Applicant's appeal of any determination by a Reviewer with respect to an Estimated Fee, if the Board of Trustees determines in good faith that such Estimated Fee is a Reasonable and Necessary Fee, in whole or in part, then such fee or portion thereof which is a Reasonable and Necessary Fee shall be deposited in escrow by the Applicant as provided in Section 8 of this Local Law and the Applicant shall not be required to pay all or any portion of such Estimated Fee which the Board of Trustees finds is not a Reasonable and Necessary Fee.
 - i. In connection with an Applicant's appeal of any determination by a Reviewer with respect to a Claimed Fee, if the Board of Trustees determines that such Claimed Fee is a Reasonable and Necessary Fee, in whole or in part, then such Claimed Fee or portion thereof which is a Reasonable and Necessary Fee shall be paid by the Village to the Claimant out of the Escrow Account and any other portion of such Claimed Fee shall not be paid by the Village to the Professional
 - j. o
 - k. A copy of any determination of the Board of Trustees with respect to a fee as provided in Section **** shall be delivered by the Board of Trustees to the Applicant,
13. Right of Appeal regarding Pending Disputes.
- a. During the thirty (30) day period immediately following the Effective Date or during such other period of time as a court of competent jurisdiction shall direct, an Applicant who is the plaintiff in any Pending Dispute shall have the right to appeal the payment of the fees which are the subject of such Pending Dispute ("Disputed Fees") to the Board of Trustees.
 - b. Such appeal will be scheduled for a date which is within 30 days
 - c. During such appeal the Board shall permit the introduction of verbal and written evidence from the applicant and from the Village Attorney and/or other officials or representatives of the Village as the Board deems material and relevant to the appeal.
 - d. Within thirty (30) days after the date of the appeal, the Board shall issue a determination as to whether the Disputed Fees meet the Fee Approval Conditions and modifications or additions to such conditions, if any, as may have been ordered by a court of competent jurisdiction ("Court Ordered Conditions").

- e. In the event that the Board determines that conditions in Section 14(e) have been met with respect to all or a portion of the Disputed Fees and further determines that such fees have been audited by the Board in accord with Village Law §5-524, the Board shall require the payment of such fees by the Applicant to the Village. To the extent that the Board finds that all or any portion of the Disputed Fees do not meet the conditions in Section 14(e), then any portion of such disapproved fees which have been previously paid by the Applicant to the Village shall be refunded by the Village to the Applicant and the Applicant shall not be required to pay any portion of such disapproved fees which have not been paid by the Applicant. determination as to whether such Disputed Fees meet each of the Approval Conditions .

With respect to any Claimed Fee approved by the Reviewer, the Reviewer shall also provide the Board of Trustees with any bills and/or vouchers submitted to the Village by the Professional seeking payment of the Claimed Fee.

- f. The Board of Trustees shall audit the Claimed Fee pursuant to Village Law 5-524.
- g. In addition to any audit or other conditions legally required in connection with the Board of Trustee's approval to pay a Claimed Fee, such Claimed Fee shall not be approved for payment by the Board of Trustees unless the Board of Trustees reviews and adopts a resolution approving the Reviewer's determination that the Claimed Fee meets each of the Fee Approval Conditions set forth in Section 8.
- h. In the event that the Mayor has served as the Reviewer with respect to any Estimated Fee or Claimed Fee and the Reviewer's determination is appealed to the Board of Trustees as provided in herein, the Mayor shall abstain from voting on any determination by the Board of Trustees as to whether the Estimated Fee or Claimed Fee, as the case may be, is a Reasonable and Necessary Fee.
- i. In connection with an Applicant's appeal of any determination by a Reviewer with respect to an Estimated Fee, to the extent that the Board of Trustees determines that such Estimated Fee is a Reasonable and Necessary Fee, the Applicant shall deposit the amount deemed to be a Reasonable and Necessary Fee in escrow as provided in Section 8 of this Local Law.
- j. In connection with an Applicant's appeal of any determination by a Reviewer with respect to a Claimed Fee, if the Board of Trustees determines that such Claimed Fee is a Reasonable and Necessary Fee, in whole or in part, then such

Claimed Fee or portion thereof which is a Reasonable and Necessary Fee shall be paid by the Village out of the Escrow Account.

14. **Invalidity; Severability.** If any provision of this Local Law is determined to be invalid, this Local Law shall nevertheless be enforceable as to the remaining provisions of this Local Law as though the provision deemed to be invalid or ineffective were never part of the Local Law.

15. **Fees Required by Other Applicable Law.** The fees provided for in this Local Law are in addition to application or administrative fees required pursuant to any other provisions of the Code or any other law, rule or regulation, including SEQRA fees imposed pursuant to 6 NYCRR 617.13 (except that the professional fees imposed hereunder in connection with SEQRA review shall be credited against the fees imposed under 6 NYCRR 617.13). Money deposited by applicants pursuant to this section shall not be used to offset the Village's general expenses of professional services for the several boards of the Village or its general administrative expenses.

16. This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with § 27 of the Municipal Home Rule Law (the "Effective Date")

Mayor Taylor advised the Board of Trustees that, pursuant to the Municipal Home Rule Law of the State of New York, it was necessary to hold a public hearing upon this proposed local law.

_____ offered the following resolution, which was seconded by Trustee _____, who moved its adoption:

WHEREAS, _____ has introduced this proposed local law for the Village of Pawling, to be known as Village of Pawling Proposed Local Law No ~~3~~⁴ of 2022, entitled “Local Law No ~~3~~⁴ for the year 2022 to be known as **“Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals”**

RESOLVED, that a public hearing be held in relation to the proposed changes as set forth in the form of notice, hereinafter provided, at which hearing parties in interest and citizens shall have an opportunity to be heard, to be held at the Village Hall on **May 16, 2022 at 7 o'clock p.m.**, Prevailing Time, and that notice of said meeting shall be published in the official newspaper of general circulation in the Village of Pawling by the Village Clerk, at least five (5) days before such hearing and that such notice shall be in the following form:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Board of Trustees of the Village of Pawling will hold a public hearing at the Village Hall, 9 Memorial Avenue, Pawling, New York on May 16, 2022, at 7 o'clock p.m., Prevailing Time on Proposed Local Law No. 3 of 2022 entitled "Local Law No. ~~3~~⁴ for the year 2022 to be known as "**Procedures for determination and payments of reasonable and necessary fees relating to Applications for Land Use Approvals**"

TAKE FURTHER NOTICE, that copies of the aforesaid proposed local law will be available for examination at the Village of Pawling Village Hall, 9 Memorial Avenue, Pawling, New York.

TAKE FURTHER NOTICE, that all persons interested and citizens shall have an opportunity to be heard on said proposal at the time and place aforesaid.

DATED: Pawling, New York
_____, 2022

JENNIFER OSBORN, VILLAGE CLERK

The question of the foregoing Resolution was duly put to a vote, the Board of Trustees voting as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Abstain</u>
Mayor Lauri Taylor	—	—	—
Trustee Daniel Peters	—	—	—
Trustee John Burweger	—	—	—
Trustee Tom Meyer	—	—	—
Trustee Gerald Locascio	—	—	—
 TOTAL	—	—	—

I hereby certify that the above is a true and correct copy of the Resolution passed by the Village of Pawling Board of Trustees at a meeting held on _____, 2022

Date: _____, 2022

Jennifer Osborn, Village Clerk

Village of Pawling
Authorizing Application to Municipal Investment Grant Program
Village of Pawling Water Supply Project - Lower Baxter Wellfield Development and Construction

WHEREAS, the Village of Pawling is proposing to develop five water supply wells, a water treatment facility, and related utility line infrastructure on the Village's Water Supply lands. Five new water wells will be put into operation and a treatment facility with an EMC generator will be constructed at 50 Tyrell Road on Tax Parcel No. 6957-20-904187-0000. The remaining utility line infrastructure will be constructed at 50 Tyrell Road to make a connection through two parcels (134001-6957-16-937250-0000 and 134001-6957-16-868317-0000) and the New York State Electric and Gas Corporation (NYSEG) transmission corridor (by easement) to Grandview Avenue;

WHEREAS, the 50 Tyrell Road parcel is currently occupied by three existing and operational bedrock wells (known as the Baxter wells), existing test wells (whose permanent operation is part of this environmental analysis), existing Baxter Green Water Treatment Plant and associated structures, successional forest and wetland area. This parcel abuts the Baxter Road residential subdivision to the west, NYS Electric and Gas (NYSEG) right-of-way (ROW) to the northwest, Village water supply land (134001-6957-16-937250-0000) to the northeast (through which the water line will connect), residential development to the east and south, with some undeveloped area;

WHEREAS, the proposed wells will be added to the Village's water supply system for which additional ground water supply is urgently needed pursuant to the terms of the Consent Order between the Dutchess County Department of Community and Behavioral Health and the Village. These wells will increase source capacity to enable the water supply system to sufficiently meet maximum daily demand. The new wells are proposed to operate in conjunction with the Umscheid water wells (located northwest of the site on parcel 134001-6957-16-868317-0000). With the Lower Baxter wells operational in conjunction with the Umscheid water wells, the maximum daily flow from the water treatment plant will be 432,000 gallons per day;

WHEREAS, the Village is seeking funding for the Village of Pawling Water Supply Project – Lower Baxter Wellfield Development and Construction, through the 2022 Dutchess County Municipal Investment Grant Program in partnership with the Town of Pawling. The grant request is \$200,000;

WHEREAS, the Village attests to the validity and veracity of the statements and representations contained in the Village of Pawling Water Supply Project – Lower Baxter Wellfield Development and Construction 2022 Municipal Investment Grant application; and

NOW, THEREFORE, BE IT RESOLVED that, that the Village of Pawling will meet the financial obligations necessary to fully and satisfactorily complete the project and hereby authorizes and

empowers the Village Mayor, Lauri Taylor to sign and submit a grant application and enter into a grant agreement with Dutchess County; and

IT IS FURTHER RESOLVED, that the Village will comply with all local, state and federal rules, regulations and ordinances relating to this project and the grant agreement.

Water Supply Project - Lower Baxter Wellfield Development and Construction 2022 Municipal Investment Grant (MIG) Program

Dutchess County

Applicant Information

Contact Person*

Character Limit: 100

Lauri Taylor

Contact Title*

Character Limit: 50

Mayor, Village of Pawling

Contact Email*

Character Limit: 100

ltaylor@villageofpawling.org

Contact Phone*

Character Limit: 15

845-855-1122

Co-Applicants

Co-Applicants*

How many co-applicants are involved with this activity?

1

Co-Applicant # 1

Co-Applicant # 1 - Organization*

Character Limit: 100

Town of Pawling

Co-Applicant # 1 - Contact Person*

Character Limit: 100

James Schmitt

Co-Applicant # 1 - Contact Person Title*

Character Limit: 250

Town Supervisor, Town of Pawling

Co-Applicant # 1 - Contact Person E-mail*

Character Limit: 254

jschmitt@pawling.org

Activity Information

Activity Title*

Please consider the following when selecting an activity title:

- 1) Do not include the community/entity/organization name.
- 2) Make sure the title gives a general idea of what the activity is about.

Character Limit: 75

Water Supply Project – Lower Baxter Wellfield Development and Construction

Focus Areas*

Community Development - Water

Activity Overview*

Provide a brief and specific overview of the activity, as well as a description of how it will increase efficiencies, produce savings, create greater accessibility, and/or lower the property tax levy.

Character Limit: 1500

Additional ground water supply is urgently needed pursuant to the terms of the Consent Order between the Dutchess County Department of Behavioral and Community Health and the Village, dated October 19, 2020. The Village of Pawling is proposing to develop five water supply wells, a water treatment facility, and related utility line infrastructure on the Village's Water Supply lands. The proposed wells will be added to the Village's existing water supply system to supply adequate critical water to 2,200 people through 654 service connections. The service area includes the Village of Pawling, and up to 450 people in the Town of Pawling, including Pawling High and

Middle Schools.

The Village's water supply sources have been challenged to produce enough water to meet demand for at least three decades. The 1995 Comprehensive Plan noted lack of capacity as a key factor limiting dense infill development and growth. The deficient supply has resulted in declaration of Water Supply Emergency, an Order on Consent issued for inadequate supply, and purchase of Bulk Water. These wells will increase source capacity to enable the water supply system to sufficiently meet maximum daily demand and fully comply with Part 5 of the New York Sanitary Code.

Completion of the project will relieve economic development restrictions associated with inadequate water supply. The Village will have the available capacity to meet existing demand and allow expansion of user base and increased revenue.

Activity Evaluation*

Describe how you will measure the outcomes of the activity and its successfulness.

Character Limit: 1500

Outcome Statement: Construct five water supply wells, a water treatment facility, and related utility line infrastructure.

Outcome Measure: Provide a long-term solution to enable the Village to fully comply with 10 NYCRR Subpart 5-1 requirements in accordance with Dutchess County Department of Behavioral and Community Health (DCDBCH) Consent Order. The following tasks will track progress towards and fulfillment of the outcome:

- Approve Design and Specifications – DCDBCH, NYSDOH, NYSDEC
- Award Construction Contract – Village of Pawling
- Complete Construction/Engineer's Certification of Public Water Improvement Project Completion – Professional Engineer, Approved by DCDBCH, NYSDOH

Outcome Statement: The maximum daily flow from all sources and treatment plant will be 432,000 gallons per day.

Outcome Measure: The proposed wells will be added to the Village's water supply system and will increase source capacity to enable the water supply system to sufficiently meet maximum daily demand with a maximum daily flow of 432,000 gallons per day. Eliminate purchase of water from an Approved Bulk Water Supplier to supplement insufficient source capacity. The following tasks will demonstrate achievement of the outcome:

- Elimination in Bulk Water Purchase Requests and Sales Receipts – Village of Pawling
- Water Production Metering – Village of Pawling
- Annual Water Withdrawal Report – NYSDEC
- The new wells will allow the Village to discontinue use of Libby Source (flawed with

naturally radioactive contaminants) and the Corbin source (inadequately protection setbacks)

Public Participation*

Provide a brief and specific description of the public participation process for the implementation of the activity.

Character Limit: 750

The Village of Pawling is required by NYS and Federal regulations to provide users with a report annually that describes the quality of municipal drinking water. The 2021 Annual Water Quality Report states, “the Village’s water supply sources have been challenged to produce enough water to meet the Village’s needs. Source capacity issues have plagued the Village for at least 3 decades.”

The proposed Lower Baxter Well Development project has been discussed publicly at Town Board meetings which are open to the public. The April 4, 2022, meeting included Adoption of the NYS SEQR Determination of Non-Significance for the Water Supply Project – Lower Baxter. The May 2, 2022, meeting included adoption of MIG Application Resolution.

Focus Areas Subcategories (Community Development)

Focus Areas Subcategories*

Please choose one.

Community Development-Water and Wastewater

Outcome Information

General Outcome*

Will this project? (check all that apply)

Choices

- ✓ Partner with other municipalities, fire and rescue districts and/or water and wastewater authorities – Town of Pawling

Result in recurring property tax savings – No

- ✓ Include an organizational match or contribution – Village of Pawling has Adopted a Planning Bond and is in the process of adopting a Municipal Bond

Align with 2022 county budget initiatives and priorities - No

- ✓ Align with a local master plan, capital plan, or prioritization – Comprehensive Plan
- ✓ Leverage other funding sources, including private resources – Municipal Bond
- ✓ Redevelop or revitalize underserved neighborhoods - municipal water serves all residents in the Village and Town water district including those in underserved neighborhoods.

Outcome Report Template*

Please download this Outcome Report Template, complete the spreadsheet, save to your computer and upload below.

File Size Limit: 1 MB

See attached excel sheet.

Budget Information

Activity Budget*

Please download this MIG Project Budget Template, complete the spreadsheet, save to your computer and upload below. ****Any entity awarded funding through the MIG Program for a “Public Work” (Construction) project is subject to all the provisions contained in the New York State Labor Law, including prevailing wage. Please keep this in mind when preparing your project budget and funding request.****

File Size Limit: 5 MB

Total Activity Cost*

What is the total activity cost?

Character Limit: 20

\$2,028,000

Organization Contribution*

How much of the total activity cost is your municipality/entity contributing?

Character Limit: 20

\$1,828,000

Funding Request*

How much funding are you requesting through this grant?

Joint Applicant Maximum: \$200,000

Partial Funding*

Could your activity move forward with partial funding?

Choices

Yes

Match*

Will this funding be used as a match to another funding source?

Choices

No

Timeline Information

Project Timeline*

Please download this Timeline Template, complete the spreadsheet, save to your computer and upload below.

File Size Limit: 1 MB

See attached excel spreadsheet

Submission Certification

Certification*

By typing your name in the box below, you are certifying that:

1. The information in this application is true and accurate;
2. I have read and understand the program guidelines; and
3. I am authorized to submit this application on behalf of the organization.

Type your name here:

Character Limit: 100

Supporting Documents

Support Documents

Use the upload a file option below to attach Memorandums of Understanding (MOU), Intermunicipal Agreements (IMA), Hazard Mitigation Plans, Emergency Preparedness Plans, or support letters from co-applicants. ****Please upload all documents as one combined file.****

File Size Limit: 25 MB

- Resolution V Pawling approve application – May 2, 2022
- Support Letter from T Pawling as co-applicant – D Stone drafted 4/27
- IMA documenting Village/Town water service agreement – secured
- Consent Order - secured

- Engineers Report - secured
- SEQR Documentation – secured
- SHPO Documentation
- Comprehensive Plan - page 80, 93, 94 – secured

Miscellaneous Uploads

Miscellaneous Uploads

Optional - In this section you may upload any critical document(s) you feel will help reviewers understand your project but did not fit with the other application questions. ****Please upload all documents as one combined file.****

File Size Limit: 25 MB

04/28/2022

VILLAGE OF PAWLING

09:19:34

Water Sewer & Collection Adjustments

Date	Account Name	Ref	Water			Sewer			Collection		Total			
			Charge	Penalty	Final	Charge	Penalty	Final	Other	Charge Final		Penalty		
04/28/2022	10182 MULLANE, WILLIAM A.	01836	-51.47									-143.97	-195.44	
TOTAL:			-51.47	0.00	0.00	0.00	0.00	0.00	0.00	0.00		-143.97 0.00	0.00	-195.44

Approved 4/21/22 meeting

LEAD AGENCY NOTICE

PROJECT NAME: 5 Oak Street Renovation (Site Plan Application)

NOTICE TO INTERESTED and INVOLVED AGENCIES REGARDING DESIGNATION OF LEAD AGENCY

THIS NOTICE IS ISSUED PURSUANT TO PART 617 OF THE IMPLEMENTING REGULATIONS FOR ARTICLE 8 (STATE ENVIRONMENTAL QUALITY REVIEW ACT) OF THE ENVIRONMENTAL CONSERVATION LAW TO DESIGNATE A LEAD AGENCY FOR THIS PROJECT REVIEW.

THE PROJECT SPONSOR: 5 Oak Realty (Sean Hilderbrand)

PROJECT DESCRIPTION

Parcel #: 6957-20-986028 B-1 Zoning District in the Village. the expansion of an existing building (1,440 SF) to include a second floor, five apartments (3,612 SF) and commercial office/retail space (1,110 SF) for a total of approximately 5,690 SF (including the basement). The first floor will be comprised of commercial space and a single apartment (950 SF), and the second floor will include the four remaining apartments. Five parking spaces are provided, where eight are required. Access is provided by Arch Street.

The proposed action is an Unlisted Action under SEQRA.

LEAD AGENCY DESIGNATION

Under the applicable standards of Title 6 NYCRR §617.6(b)(3), the Village of Pawling Planning Board has determined that it should be the Lead Agency in the environmental review of the proposed action. This notice is being sent to interested and involved agencies with the request that your involved agency consent to the designation of the Village of Pawling Planning Board as Lead Agency. If your involved agency declines to consent, you are referred to the procedures outlined in 6 NYCRR §617.6(b)(5).

This notice is being mailed or personally delivered on the date shown below. Please complete the attached RESPONSE TO REQUEST THAT THE ABOVE NAMED AGENCY SERVE AS LEAD AGENCY FOR THE ABOVE ACTION/APPLICATIONS consenting to the designation of the Village of Pawling Planning Board as Lead Agency and return it by personal delivery to the Planning Board Secretary located at 9 Memorial Ave., Pawling, NY 12564 or by email to **Vivian Nikolatos** at pbsecy@villageofpawling.org on or before 30 days after the date of this Notice to Interested and Involved Agencies. Failure to return a response within the 30 day time period is deemed to be a waiver of objection by the involved agency and constitutes a consent by such involved agency to the requested designation as Lead Agency.

The involved agencies will continue to be notified of SEQRA determinations and subsequent SEQRA proceedings, and SEQRA documents will be made available to you.

**Dated: Pawling, New York
April 14, 2022**

Village of Pawling Planning Board

By: ROBERT PFISTER, CHAIRMAN

LEAD AGENCY NOTICE

PROJECT NAME: 5 Oak Street Renovation (Site Plan Application)

**STATE OF NEW YORK: COUNTY OF DUTCHESS
VILLAGE OF PAWLING**

-----X

**PROPOSED LEAD AGENCY DECLARATION BY
VILLAGE OF PAWLING PLANNING BOARD FOR
SITE PLAN APPLICATION OF 5 OAK STREET SITE PLAN APPLICATIONS**

-----X

RESPONSE TO REQUEST THAT THE ABOVE NAMED AGENCY SERVE AS LEAD AGENCY FOR THE ABOVE ACTION/APPLICATIONS

ON BEHALF OF **VILLAGE OF PAWLING BOARD OF TRUSTEES**, WE ACKNOWLEDGE RECEIPT OF THE LEAD AGENCY NOTICE IN THIS MATTER, the Environmental Assessment Form filed by Applicant and supporting SEQRA filings, upon which the involved agency designated below held a regular or special meeting, with requisite notice of same, and upon a resolution moved and seconded and a majority of the members of the involved agency voting for the motion, authorized this response to the Notice of Lead Agency.

THE ABOVE NAMED AGENCY:

- CONSENTS TO THE DESIGNATION OF THE VP **PLANNING BOARD** AS LEAD AGENCY FOR THESE APPLICATIONS, AND REQUESTS THAT THE LEAD AGENCY CONTINUE TO NOTIFY THE UNDERSIGNED INVOLVED AGENCY OF SEQR DETERMINATIONS AND PROCEEDINGS FOR SUCH APPLICATIONS.
- DOES NOT CONSENT TO THE ABOVE NAMED INVOLVED AGENCY (**PLANNING BOARD**) TO SERVE AS LEAD AGENCY.

DATED: APRIL __, 2022

- PLANNING BOARD

BY: _____
SIGNATURE OF AUTHORIZED MEMBER

TITLE

PLEASE HAND DELIVER OR RETURN BY EMAIL TO
VIVIAN NIKOLATOS
PLANNING BOARD SECRETARY
9 MEMORIAL AVE.
PAWLING, NY 12564
pbsecy@villageofpawling.org